

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2007-1046-MWD-E **TCEQ ID:** RN101919611 **CASE NO.:** 34140**RESPONDENT NAME:** McMullen County Water Control & Improvement District No. 1 and McMullen County

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Tilden Wastewater Treatment Plant, located adjacent to the west side of State Highway 16 and immediately south of the intersection of State Highway 16 and Farm-to-Market Road 72, McMullen County</p> <p>TYPE OF OPERATION: Wastewater treatment plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on January 28, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. James Nolan, Enforcement Division, Enforcement Team 4, MC 169, (512) 239-6634; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Ms. Linda Lee Henry, McMullen County Judge, County Courthouse, Post Office Box 237, Tilden, Texas 78072 Mr. Alan Brown, Manager, McMullen County Water Control & Improvement District No. 1, Post Office Box 4, Tilden, Texas 78072 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

DOCKET NO.: 2007-1046-MWD-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Record Reviews Relating to this Case: June 20, 2007 and July 25, 2007</p> <p>Date of NOE Relating to this Case: June 27, 2007 (NOE)</p> <p>Background Facts: These were routine record reviews.</p> <p>WATER</p> <p>1) Failure to employ a wastewater operator holding a category D license or higher. Specifically, the current operator's license expired on May 24, 2006 [30 TEX. ADMIN. CODE §§ 30.331(b) and 30.350(d), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013543001, Other Requirements No. 1].</p> <p>2) Failure to submit monitoring results at intervals specified in the permit. Specifically, the discharge monitoring report(s) ("DMRs") were not submitted for Outfall 001A for the monitoring periods ending February, March, April, May, June, July, August, September, October, November, and December 2006 and January, February, March, April, May, and June 2007 [30 TEX. ADMIN. CODE §§ 305.125(17) and 319.7(d), and TPDES Permit No. WQ0013543001, Monitoring and Reporting Requirements No. 1].</p>	<p>Total Assessed: \$20,160</p> <p>Total Deferred: \$4,032 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$448 (remaining \$15,680 due in 35 monthly payments of \$448 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a) Within 30 days after the effective date of this Agreed Order, renew the license of the current operator or employ an operator holding the required level of license or higher;</p> <p>b) Within 45 days after the effective date of this Agreed Order, submit the DMR's for Outfall 001A for the monitoring periods ending February 28, 2006, March 31, 2006, April 30, 2006, May 31, 2006, June 30, 2006, July 31, 2006, August 31, 2006, September 30, 2006, October 31, 2006, November 30, 2006, December 31, 2006, January 31, 2007, February 28, 2007, March 31, 2007, April 30, 2007, May 31, 2007, and June 30, 2007; and</p> <p>c) Within 60 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. and b.</p>

Additional ID No(s): WQ0013543001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 17, 2006

TCEQ

DATES

Assigned

2-Jul-2007

PCW

6-Jul-2007

Screening

6-Jul-2007

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent McMullen County Water Control & Improvement District No. 1 and McMullen County

Reg. Ent. Ref. No. RN101919611

Facility/Site Region 16-Laredo

Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 34140

Docket No. 2007-1046-MWD-E

Media Program(s) Water Quality

Multi-Media

Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

No. of Violations 2

Order Type 1660

Enf. Coordinator Deana Holland

EC's Team Enforcement Team 1

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1

\$18,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

12% Enhancement

Subtotals 2, 3, & 7

\$2,160

Notes

A 12% enhancement is recommended for having two NOV's with same or similar violations and one NOV without same or similar violation within the last five years.

Culpability

No

0% Enhancement

Subtotal 4

\$0

Notes

The Respondents do not meet the culpability criteria.

Good Faith Effort to Comply

0% Reduction

Subtotal 5

\$0

Before NOV

NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondents do not meet the good faith criteria.

0% Enhancement*

Subtotal 6

\$0

Total EB Amounts \$319

Approx. Cost of Compliance \$3,350

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal

\$20,160

OTHER FACTORS AS JUSTICE MAY REQUIRE

Adjustment

\$0

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount

\$20,160

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

\$20,160

DEFERRAL

20%

Reduction

Adjustment

-\$4,032

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$16,128

Screening Date 6-Jul-2007

Docket No. 2007-1046-MWD-E

PCW

Respondent McMullen County Water Control & Improvement District 1

Policy Revision 2 (September 2002)

Case ID No. 34140

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN101919611

Media [Statute] Water Quality

Enf. Coordinator Deana Holland

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	2	10%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 12%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

A 12% enhancement is recommended for having two NOVs with same or similar violations and one NOV without same or similar violation within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 12%

Screening Date 6-Jul-2007

Docket No. 2007-1046-MWD-E

PCW

Respondent McMullen County Water Control & Improvement District No. 1 and

Policy Revision 2 (September 2002)

Case ID No. 34140

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN101919611

Media [Statute] Water Quality

Enf. Coordinator Deana Holland

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 30.331(b) and 30.350(d), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013543001, Other Requirements No. 1

Violation Description

Failed to employ a wastewater operator holding a category D license or higher. Specifically, the current wastewater operator's license expired on May 24, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

16 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

One quarterly event is recommended from the June 20, 2007 date of the investigation to July 6, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$232

Violation Final Penalty Total \$1,120

This violation Final Assessed Penalty (adjusted for limits) \$1,120

Economic Benefit Worksheet

Respondent: McMullen County Water Control & Improvement District No. 1 and McMullen County
Case ID No.: 34140
Reg. Ent. Reference No.: RN101919611
Media: Water Quality
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,500	24-May-2006	1-Apr-2008	1.9	\$232	n/a	\$232

Notes for DELAYED costs

Estimated cost to provide a D licensed operator for the Facility. The date required is the date of the noncompliance and the final date is the projected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$2,500	TOTAL	\$232
----------------------------	---------	-------	-------

Screening Date 6-Jul-2007

Docket No. 2007-1046-MWD-E

PCW

Respondent McMullen County Water Control & Improvement District No. 1 and

Policy Revision 2 (September 2002)

Case ID No. 34140

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN101919611

Media [Statute] Water Quality

Enf. Coordinator Deana Holland

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(17) and 319.7(d), and TPDES Permit No. WQ0013543001, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to submit monitoring results at intervals specified in the permit, as documented by TCEQ during a record review conducted on July 25, 2007. Specifically, the discharge monitoring report(s) ("DMRs") were not submitted for Outfall 001A for the monitoring periods ending February, March, April, May, June, July, August, September, October, November, and December 2006 and January, February, March, April, May, and June 2007.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor
850		x		

Percent 10%

Matrix Notes

100% of the permit requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 17

514 Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$17,000

Seventeen single events (one for each report) are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$87

Violation Final Penalty Total \$19,040

This violation Final Assessed Penalty (adjusted for limits) \$19,040

Economic Benefit Worksheet

Respondent: McMullen County Water Control & Improvement District No. 1 and McMullen County
 Case ID No: 34140
 Reg. Ent. Reference No: RN101919611
 Media: Water Quality
 Violation No: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$850	20-Mar-2006	1-Apr-2008	2.0	\$87	n/a	\$87

Notes for DELAYED costs

Estimated cost to submit the Discharge Monitoring Reports (\$50 for each of the 17 missing reports). Date required is the date the first report was due and the final date is the projected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$850

TOTAL

\$87

Compliance History

Customer/Respondent/Owner-Operator:	CN600900955	McMullen County	Classification:	Rating: 2.42
			AVERAGE	
Regulated Entity:	RN101919611	TILDEN WASTEWATER TREATMENT PLANT	Classification:	Site Rating: 1.83
			AVERAGE	
ID Number(s):	WASTEWATER	PERMIT	WQ0013543001	
	WASTEWATER	PERMIT	TX0107646	
	WASTEWATER LICENSING	LICENSE	WQ0013543001	
Location:	LOCATED ADJACENT TO THE WEST SIDE OF STATE HIGHWAY 16 AND IMMEDIATELY SOUTH OF THE INTERSECTION OF STATE HIGHWAY 16 AND FARM-TO-MARKET ROAD 72 IN MCMULLEN COUNTY, TEXAS		Rating Date: September 01 06 Repeat Violator: NO	
TCEQ Region:	REGION 16 - LAREDO			
Date Compliance History Prepared:	July 18, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	July 02, 2002 to July 02, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Deana Holland	Phone:	239-2504	

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- | | | |
|---|------------|----------|
| 1 | 08/06/2003 | (148516) |
| 2 | 03/08/2004 | (264836) |
| 3 | 12/08/2004 | (341768) |
| 4 | 04/04/2005 | (376611) |
| 5 | 08/17/2006 | (485466) |
| 6 | 06/27/2007 | (565181) |

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/07/2003 (148516)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to comply with permit limits.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)[G]

Description: Failure to maintain adequate calibration records for the chlorine and DO meters.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)

Description: Failure to provide the required records during the investigation.

Date: 12/08/2004 (341768)

Self Report? NO

Classification: Moderate

Citation: TWC Chapter 26 26.121

Description: Failure to obtain a permit as required by the Texas Water Code: except as authorized by a rule, permit, or order issued by the commission, no person may discharge sewage, municipal waste, recreational waste, agricultural waste, or industrial waste into or adjacent to any water in the state.

Date: 08/18/2006 (485466)

Self Report? NO

Classification Moderate

Citation: 30 TAC Chapter 30, SubChapter J 30.331(b)

30 TAC Chapter 30, SubChapter J 30.350(d)

Description: Failure to employ a certified operator to operate the plant and collection system.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

Compliance History

Customer/Respondent/Owner-Operator: CN600737092 McMullen County Water Control & Improvement District No. 1 Classification: AVERAGE Rating: 1.83

Regulated Entity: RN101919611 TILDEN WASTEWATER TREATMENT PLANT Classification: AVERAGE Site Rating: 1.83

ID Number(s): WASTEWATER PERMIT WQ0013543001
WASTEWATER PERMIT TX0107646
WASTEWATER LICENSING LICENSE WQ0013543001

Location: LOCATED ADJACENT TO THE WEST SIDE OF STATE HIGHWAY 16 AND IMMEDIATELY SOUTH OF THE INTERSECTION OF STATE HIGHWAY 16 AND FARM-TO-MARKET ROAD 72 IN MCMULLEN COUNTY, TEXAS Rating Date: 9/1/2006 Repeat Violator: NO

TCEQ Region: REGION 16 - LAREDO

Date Compliance History Prepared: July 02, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 02, 2002 to July 02, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Deana Holland Phone: 239-2504

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 08/06/2003 (148516)
2 03/08/2004 (264836)
3 12/08/2004 (341768)
4 04/04/2005 (376611)
5 08/17/2006 (485466)
6 06/27/2007 (565181)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/07/2003 (148516)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to comply with permit limits.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)[G]

Description: Failure to maintain adequate calibration records for the chlorine and DO meters.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)

Description: Failure to provide the required records during the investigation.

Date: 12/08/2004 (341768)

Self Report? NO

Classification: Moderate

Citation: TWC Chapter 26 26.121

Description: Failure to obtain a permit as required by the Texas Water Code: except as authorized by a rule, permit, or order issued by the commission, no person may discharge sewage, municipal waste, recreational waste, agricultural waste, or industrial waste into or adjacent to any water in the state.

Date: 08/18/2006 (485466)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 30, SubChapter J 30.331(b)

30 TAC Chapter 30, SubChapter J 30.350(d)

Description: Failure to employ a certified operator to operate the plant and collection system.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MCMULLEN COUNTY WATER
CONTROL & IMPROVEMENT
DISTRICT NO. 1 AND MCMULLEN
COUNTY
RN101919611**

**§ BEFORE THE
§
§
§
§ TEXAS COMMISSION ON
§
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1046-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding McMullen County Water Control & Improvement District No. 1 and McMullen County ("the District and the County") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the District and the County appear before the Commission and together stipulate that:

1. The County owns and the District operates a wastewater treatment plant located adjacent to the west side of State Highway 16 and immediately south of the intersection of State Highway 16 and Farm-to-Market Road 72 in McMullen County, Texas (the "Facility").
2. The District and the County have committed any other act or engaged in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the District and the County agree that the Commission has jurisdiction to enter this Agreed Order, and that the District and the County are subject to the Commission's jurisdiction.
4. The District and the County received notice of the violations alleged in Section II ("Allegations") on or about July 2, 2007.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the District and the County of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twenty Thousand One Hundred Sixty Dollars (\$20,160) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The District and the County have paid Four Hundred Forty-Eight Dollars (\$448) of the administrative penalty and Four Thousand Thirty-Two Dollars (\$4,032) is deferred contingent upon the District and the County's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the District and the County fail to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the District and the County to pay all or part of the deferred penalty.

The remaining amount of Fifteen Thousand Six Hundred Eighty Dollars (\$15,680) of the administrative penalty shall be payable in 35 monthly payments of Four Hundred Forty-Eight Dollars (\$448) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the District and the County fail to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the District and the County to meet the payment schedule of this Agreed Order constitutes the failure by the District and the County to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the District and the County have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the District and the County have not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the District and the County are alleged to have:

1. Failed to employ a wastewater operator holding a category D license or higher, in violation of 30 TEX. ADMIN. CODE §§ 30.331(b) and 30.350(d), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013543001, Other Requirements No. 1, as documented during a record review conducted on June 20, 2007. Specifically, the current operator's license expired on May 24, 2006.
2. Failed to submit monitoring results at intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(17) and 319.7(d), and TPDES Permit No. WQ0013543001, Monitoring and Reporting Requirements No. 1, as documented by TCEQ during a record review conducted on July 25, 2007. Specifically, the discharge monitoring report(s) ("DMRs") were not submitted for Outfall 001A for the monitoring periods ending February, March, April, May, June, July, August, September, October, November, and December 2006, and January, February, March, April, May, and June 2007.

III. DENIALS

The District and the County generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the District and the County pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the District and the County's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: McMullen County Water Control & Improvement District No. 1 and McMullen County, Docket No. 2007-1046-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The District and the County are jointly and severally liable for the violations documented in this Agreed Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Agreed Order.
3. It is further ordered that the District and the County shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, renew the license of the current operator or employ an operator holding the required level of license or higher;
 - b. Within 45 days of the effective date of the Agreed Order, submit the DMRs for Outfall 001A for the monitoring periods ending February 28, 2006, March 31, 2006, April 30,

2006, May 31, 2006, June 30, 2006, July 31, 2006, August 31, 2006, September 30, 2006, October 31, 2006, November 30, 2006, December 31, 2006, January 31, 2007, February 28, 2007, March 31, 2007, April 30, 2007, May 31, 2007, and June 30, 2007 to:

Manager, Compliance Monitoring Section
Enforcement Division, MC 224
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- c. Within 60 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a. and 3.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Laredo Regional Office
Texas Commission on Environmental Quality
1403 Seymour, Suite 2
Laredo, Texas 78040-8752

4. The provisions of this Agreed Order shall apply to and be binding upon the District and the County. The District and the County are ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

5. If the District and the County fail to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the District and the County's failure to comply is not a violation of this Agreed Order. The District and the County shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The District and the County shall notify the Executive Director within seven days after the District and the County becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the District and the County shall be made in writing to the Executive Director. Extensions are not effective until the District and the County receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the District and the County in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the District and the County, or three days after the date on which the Commission mails notice of the Order to the District and the County, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Bralier
For the Executive Director

3/11/2008
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
 - Greater scrutiny of any permit applications submitted;
 - Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
 - Increased penalties in any future enforcement actions;
 - Automatic referral to the Attorney General's Office of any future enforcement actions; and
 - TCEQ seeking other relief as authorized by law.
- In addition, any falsification of any compliance documents may result in criminal prosecution.

Alan Brown
Signature

11/26/2007
Date

Alan Brown
Name (Printed or typed)
Authorized Representative of
McMullen County Water Control & Improvement District No. 1

Manager
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

McMullen County Water Control & Improvement District No. 1 and McMullen County
DOCKET NO. 2007-1046-MWD-E
Page 7

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director


Date: 3/11/2008

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

Date: 11/26/2007

Linda Lee Henry
Name (Printed or typed)
Authorized Representative of
McMullen County

McMullen Co Judge
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Section at the address in Section IV, Paragraph 1 of this Agreed Order.

